



INVESTIGATIVE REPORT

David Cook, Inspector General

OFFICE: INDIANA DEPARTMENT OF TRANSPORTATION (INDOT)
TITLE: INDOT EMPLOYEE USE OF STATE PROPERTY AND GHOST
EMPLOYMENT
CASE ID: 2021-11-0319
DATE: December 5, 2023

Indiana Office of Inspector General Staff Attorney, Doreen Clark, after an investigation by Inspector General Special Agents Jan Kruse and Mike Lepper, reports as follows:

The Indiana General Assembly charged the Office of the Indiana Inspector General (OIG) with addressing fraud, waste, abuse and wrongdoing in the executive branch agencies of state government. Ind. Code §4-2-7-2(b). The OIG also investigates allegations of criminal activity and Code of Ethics violations within state government. Ind. Code §4-2-7-3. The OIG may recommend policies and carry out other activities designed to deter, detect and eradicate fraud, waste, abuse, mismanagement and misconduct in state government. Ind. Code §4-2-7-3(2).

I. COMPLAINT

On November 10, 2021, the OIG received a complaint concerning Justin Breedlove, a former Cambridge City Subdistrict Manager (Subdistrict Manager) for the Indiana Department of Transportation (INDOT). The complaint alleged that Breedlove had not worked his regularly scheduled hours from May to August of 2021. Additionally, the complaint alleged that Breedlove inappropriately used his state issued vehicle to drive to non-work locations and had used his state issued cellphone to access adult chats. INDOT terminated Breedlove from his position on October 21, 2021.

II. OIG INVESTIGATION

OIG Special Agent Kruse¹ investigated the complaint, and Special Agent Lepper concluded the investigation. During the investigation, Special Agent Kruse interviewed various employees within INDOT, including INDOT's Investigations Manager, Breedlove's Direct supervisor and INDOT employees who worked closely with Breedlove. Special Agent Kruse also contacted a state police analyst, the Indiana Office of Technology (IOT), the Randolph County Sheriff's Department, Union Elementary School and INDOT's Payroll Director. Finally, Kruse examined and obtained Breedlove's state phone records, personnel records, computer files, vehicle activity and timecards. Special Agent Lepper contacted IOT, the state police analyst, the Secret Service and INDOT's Payroll Director.

Special Agent Kruse learned that INDOT hired Breedlove as a Subdistrict Manager on January 16, 2018. As a Subdistrict Manager, Breedlove was responsible for supervising and coordinating with multiple units and performing general highway maintenance in his assigned subdistrict. Breedlove's duties included but were not limited to advising the Highway Maintenance Director on methods, procedures, schedules and equipment; directing, planning and scheduling maintenance activities within a subdistrict; and inspecting and reviewing work being performed while also ensuring compliance.

In an interview with INDOT's Investigations Manager, Special Agent Kruse learned that a preliminary investigation was launched into Breedlove based on a complaint from an anonymous employee. During the investigation, the Investigations Manager discovered discrepancies with Breedlove's time and interviewed Breedlove to address the inconsistencies. When the Investigations Manger interviewed Breedlove, Breedlove stated that he either worked from home,

¹ Special Agent Kruse resigned from the OIG in December of 2022.

worked on weekends, flexed his time to engage in activities that were unrelated to work, switched his state issued vehicle for his personal vehicle or used his own personal computer.

The Investigations Manager informed Special Agent Kruse that Breedlove accessed adult chats using his state issued phone. When the Investigations Manager questioned Breedlove about the inappropriate cell phone usage, Breedlove stated that a boy living in his home had been making those calls; however, these calls continued even after the dates that Breedlove stated the boy left their home. The calls also occurred during Breedlove's regularly scheduled work hours. The Investigations Manager informed Special Agent Kruse that Breedlove was not approved to work from home and did not seek approval from his supervisor to flex his time. In an interview with Breedlove's supervisor, Special Agent Kruse found that his employees do not work on weekends; however, Subdistrict managers work "summer hours," which consist of a four-day work week from 6:00 a.m. to 4:00 p.m.

OIG Special Agents Kruse and Lepper collaborated with a state police analyst to combine data from Breedlove's phone, state vehicle activity and timecards into one master spreadsheet. The State Police analyst created a master spreadsheet that demonstrated Breedlove's activity from January 15, 2018 to October 21, 2021. Based on the state police analyst's spreadsheet, Special Agent Lepper was able to determine that Breedlove spent 485 hours away from the office and thirty-two hours on chat lines and other unauthorized phone activities during regular work hours. Special Agent Lepper was unable to definitively determine what specific types of activities that Breedlove engaged in during the 485 hours or whether he was performing INDOT work during those hours. However, Special Agent Lepper was able to definitively determine that Breedlove used thirty-two hours to engage in chat lines and other unauthorized activities during regular work hours.

Breedlove's weekly salary was \$2,390.00, and his hourly rate was \$30.78 per hour. Breedlove's monthly cell phone bill was \$37.99. The thirty-two hours Breedlove spent on the phone to engage in chat lines and other unauthorized activities resulted in a loss of \$984.96 for the misuse of his state time and \$1,063.72 for the misuse of his state cell phone over a twenty-eight-month period. In total, the State of Indiana incurred a loss of \$2,048.68.

III. USE OF STATE PROPERTY RULE

The OIG investigation revealed that Breedlove violated Ind. Code § 4-2-6-17, the use of state property rule. Ind. Code § 4-2-6-17, reads in relevant part that a "a state . . . employee . . . may not use state materials, funds, property, personnel, facilities, or equipment for purposes other than official state business unless the use is expressly permitted by a general written agency, departmental, or institutional policy or regulation that has been approved by the [State Ethics] Commission." The investigation revealed that INDOT assigned Breedlove a state phone for the purposes of conducting his duties as a Subdistrict Manager. Although Breedlove's phone records indicate that he used his state issued phone to conduct various phone calls related to completing his work duties, his phone records also demonstrate that his phone was used to access adult chat lines during his employment with INDOT. Breedlove claims that a 15-year-old boy had accessed his state phone to engage in the adult chats; however, the adult chats mostly occurred during Breedlove's work hours. Additionally, even if the boy had accessed the phone, providing such access would have been a violation of the Information Resources Use Agreement (IRUA), which prohibits unauthorized users from accessing Information Resources, such as a state issued phone.

INDOT has a Limited Personal Use of State Property and Resources (Policy), which the INDOT commissioner signed on June 25, 2015, and the Commission approved on June 11, 2015. The Policy establishes guidelines for limited and personal use of state property by INDOT state

employees and special state appointees. These include activities such as “communicating with schools, child-care providers and physicians.”² State Employees are in compliance with the Policy so long as the use “does not interfere with the performance of official duties and work responsibilities; the use is infrequent, of short duration, and unless not reasonably practical, made on the state employee’s or special appointee’s personal time; or the use is in accordance with the current version of the IRUA.” Under the IRUA, state employees are required to use care in protecting against unauthorized access, misuse, theft, damage or unauthorized modification of Information Resources.³

The adult chats were not related to Breedlove’s employment. Furthermore, the accessed chats did not comply with the Policy, which permits INDOT employees to use state property for limited personal use if it is infrequent and short in duration, or in direct compliance with the IRUA.

IV. GHOST EMPLOYMENT

The OIG investigation also revealed that Breedlove violated 42 IAC 1-5-13, the ghost employment rule. 42 IAC 1-5-13 reads in relevant part that a “state.. employee...shall not engage in, or direct others to engage in, work other than the performance of official duties during working hours, except as permitted by general written agency, departmental, or institutional policy or regulation.

The OIG found that Breedlove reported thirty-two hours of state time when his state cell phone records show he was engaging in adult chats using his state issued phone. Both the state police analyst records and call records indicate that Breedlove accessed Adult Chats Tango, Night Connect, Gay Males Line, Interactive Male, Vibe Line, Red Hot Date Line, Latino, Latino Voices,

² INDOT’s Limited Personal Use of State Property and Resources Policy.

³ 1(d) of Information Resources Use Agreement.

Hollar Online and Black Singles between May 17, 2021, and September 14, 2021. These chats were accessed during his four-day work week schedule, between 6:00 a.m. to 4:00 p.m.

Overall, Breedlove used thirty-two hours of state time to engage in activities unrelated to his official duties as Subdistrict Manager during his assigned work hours at a cost of \$984.96 to the State.

V. CONCLUSION

On October 12, 2023, the OIG presented the case to the State Ethics Commission (SEC) in an executive session. The SEC found probable cause to file an ethics complaint alleging Breedlove violated the Code's use of state property rule and ghost employment rule. The Inspector General subsequently filed the ethics complaint with the SEC on October 3, 2023. The complaint alleged that Breedlove violated both the Code's use of state property rule and ghost employment rule. The Inspector General and Breedlove signed an Agreed Settlement in which Breedlove admitted to the violations of the Code as alleged in the ethics complaint. As part of the agreement, Breedlove agreed to pay a fine of \$ 2,048.68 and agreed to be barred from any future employment with the State of Indiana. Breedlove is expected to pay his fine to the OIG by January 16, 2024. The OIG filed the Agreed Settlement with the SEC, and the SEC approved it on November 16, 2023. Accordingly, this investigation is closed.

Dated: December 5, 2023

APPROVED BY:



David Cook, Inspector General